



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0001; FRL- 10016-41 Region 4]

Air Plan Approval; NC; Blue Ridge Paper SO₂ Emission Limits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a source-specific State Implementation Plan (SIP) revision submitted by the State of North Carolina Department of Environmental Quality, Division of Air Quality (DAQ), in final form, through a letter dated September 3, 2020. North Carolina's September 3, 2020, source-specific SIP revision requests that EPA incorporate into the SIP more stringent sulfur dioxide (SO₂) permit limits than those currently contained in the SIP for the Blue Ridge Paper Products, LLC (also known as BRPP) facility located in the Beaverdam Township Area of Haywood County, North Carolina. Specifically, EPA is approving, into the SIP, specific SO₂ permit limits and associated operating restrictions, monitoring, recordkeeping, reporting (MRR) and testing compliance requirements established in BRPP's title V operating permit as permanent and enforceable SO₂ control measures. North Carolina submitted these limits to support its recommendation that EPA designate the Beaverdam Township Area as "attainment/unclassifiable" under the 2010 primary SO₂ national ambient air quality standard (NAAQS or standard) (also referred to as the 2010 1-hour SO₂ NAAQS). The purpose of this rulemaking is not to take action on whether these SO₂ emissions limits are adequate for EPA to designate the Beaverdam Township Area as attainment under the 2010 1-hour SO₂ NAAQS. Instead, EPA will determine the air quality status and designate remaining undesignated areas for the 2010 1-hour SO₂ NAAQS, including the Beaverdam Township Area, in a separate action. This SIP approval does not prejudice that future

designation action.

DATES: This rule is effective [Insert date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0001. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically via www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Evan Adams, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9009. Mr. Adams can also be reached via electronic mail at adams.evan@epa.gov.

I. Background

On June 24, 2020, North Carolina submitted a draft source-specific SIP revision through parallel processing to EPA for approval. Specifically, North Carolina's June 24, 2020, draft SIP revision requested EPA incorporate specific SO₂ permit limits and associated operating restrictions, MRR, and testing compliance parameters contained in title V operating permit

number 08961T29 (T29) issued to BRPP¹ by DAQ, on June 2, 2020, into the North Carolina SIP to establish these emission limits and parameters as permanent federally enforceable control measures and strengthen the North Carolina SIP. BRPP is a subsidiary of Evergreen Packaging and is located in the City of Canton in Beaverdam Township, Haywood County, North Carolina, 25 kilometers west of Asheville, North Carolina.

In a notice of proposed rulemaking (NPRM) published on August 31, 2020 (85 FR 53715), EPA proposed to approve North Carolina’s June 24, 2020, draft source-specific SIP revision. In this action, EPA is now finalizing approval of North Carolina’s source-specific SIP revision for BRPP which was submitted in final form on September 3, 2020. EPA reviewed the final submission, and it contains no substantive changes to North Carolina’s June 24, 2020, draft source-specific SIP revision that EPA proposed to approve in the August 31, 2020, NPRM.

Table 1 below lists the emissions limits to be incorporated in the North Carolina SIP for BRPP.²

Table 1. Permit T29 SO₂ Emission Limits for Incorporation into the North Carolina SIP

Emission Unit ID	Emission Unit Description	SO₂ Permitted Emission Limit Title V Permit No. 08961T29 (lb/hr)*
G08020	No. 10 Recovery Furnace-BLS-normal Operation	28.0
	No. 10 Recovery Furnace-ULSD – startup and shutdown	0.54
G08021	No. 11 Recovery Furnace-BLS – normal operation	28.0
	No. 11 Recovery Furnace-ULSD – startup and shutdown	0.54
G09028	No. 4 Lime Kiln	6.28
G09029	No. 5 Lime Kiln	10.47
G11039	Riley Coal Boiler	61.32
G11040	No. 4 Power Boiler	82.22
G11042	Riley Bark Boiler	68.00

¹ BRPP is a vertically integrated pulp and paper mill that produces specialty paperboard packaging products. BRPP’s primary operations are classified under North American Industry Classification System 322121 (Paper Except Newsprint Mills). The facility utilizes multiple boilers to produce steam for energy generation and provide heat for the pulping and paper making processes.

² More detail on the emission units, emission limits, and operating, MRR, and testing requirements are provided in the August 31, 2020, NPRM. See 85 FR 53715.

*lb/hr = pounds per hour; BLS = black liquor solids; and ULSD = ultra low sulfur diesel.

The August 31, 2020, NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the August 31, 2020, NPRM were due on or before September 30, 2020.

II. Response to Comments

EPA received five comments on the August 31, 2020, NPRM, all of which are included in the EPA docket under Docket Identification No. EPA-R04-OAR-2020-0001. All five comments are generally supportive of the stricter SO₂ emission limits and EPA's action to approve SO₂ emission limits and compliance parameters into the North Carolina SIP. One commenter also expressed their satisfaction with air permits and how they believe they prove to be an efficient way to limit SO₂ emissions. Furthermore, the BRPP facility provided comments in support of EPA's proposed action. EPA summarizes and responds to one specific comment below to provide clarification.

Comment: One commenter stated that the stricter SO₂ limits at the BRPP facility are a “welcomed sight,” and that they support the stricter limitations but also notes, “The implementation of continuous monitoring devices is paramount for such standards to be met.” The commenter also states that the limits “although relatively strict, should strive to become more strict as there were no restrictions for SO₂ prior” and that the limits should be monitored periodically to reduce emissions rather than wait until new equipment is added.

Response: EPA appreciates the commenter's support of the new SO₂ emission limits to strengthen the North Carolina SIP. Regarding the commenter's statements concerning monitoring, EPA notes that the permit conditions for five of the seven emission units at BRPP that EPA is incorporating into the North Carolina SIP require continuous monitoring to ensure proper operation of associated emissions control equipment and continuous compliance with the

SO₂ emission limits.³ As EPA explained in the August 31, 2020, NPRM, the type of monitoring required for these units is known as parametric monitoring, and it is a common method to ensure continuous compliance with an emissions limit in lieu of continuous direct sampling and monitoring of the subject pollutant. This is a common regulatory approach used in various Federal regulations such as the Maximum Achievable Control Technology standards and New Source Performance Standards.

In BRPP's permit T29, parametric monitoring is required for the five emissions units that use a scrubber to control SO₂ emissions. The parameters that are critical to proper operations of these scrubbers include scrubber liquid flow, pH, and pressure drop as provided in T29 and explained in more detail in the NPRM. T29 includes conditions restricting operating levels for each of the relevant parameters to minimum levels that demonstrate compliance with the underlying SO₂ emission limit as established during performance testing and requires continuous monitoring devices for these parameters. In addition, permit T29 requires periodic testing to confirm that the established operating levels for the relevant parameters continue to demonstrate compliance with the SO₂ emission limits and requires BRPP to comply with any revised operating parameters as needed to demonstrate continuous compliance with the SO₂ emission limits based on such future tests. EPA's final action approves these operating and continuous monitoring requirements and parameters into the North Carolina SIP.

Regarding the commenter's statement that the SO₂ emissions limits should strive to be more strict, states have flexibility in how to structure their SIPs and EPA is required to approve a SIP submission that complies with the provisions of the Clean Air Act (CAA or Act). North Carolina exercised this flexibility in developing its source-specific SIP revision for BRPP, and EPA is approving the SO₂ emissions limits contained therein as a SIP-strengthening measure

³ The permit conditions for other two emissions units EPA is incorporating into the North Carolina SIP require fuel usage restrictions and associated recordkeeping to ensure compliance with the SO₂ emissions limits.

because they are more stringent than any existing limits for BRPP in the North Carolina SIP and comply with the Act. Should North Carolina submit a SIP revision in the future with revised SO₂ limits, EPA would again evaluate the sufficiency of those limits based on the CAA criteria for approvability.

III. Incorporation by Reference

In this document, EPA is taking final action to include regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference into North Carolina's SIP the conditions identified below from title V operating Permit No. 08961T29 issued by DAQ to BRPP with an effective date of June 2, 2020. These permit conditions relate to enforcement of and compliance with SO₂ emission limitations at BRPP for seven SO₂ emitting units. Specifically, DAQ has requested EPA incorporate into the North Carolina SIP: (1) condition 2.2 J.1.b; (2) the lb/hr SO₂ emission limitations in Table 2.2 J.1 for the No. 10 and No. 11 Recovery Furnaces (G08020 and G08021), No. 4 and No. 5 Lime Kilns (G09028 and G09029) and Riley Bark, Riley Coal, and No. 4 Power Boilers (G11042, G11039 and G11040); (3) for the No. 10 and No. 11 Recovery Furnaces (G08020 and G08021) - condition 2.2 J.1.c.i; (4) for No. 4 and No. 5 Lime Kilns (G09028 and G09029) - condition 2.2 J.1.c.iii; condition 2.2 D.1.f.ii; Table 2.2 D-2; condition 2.2 D.1.h; condition 2.2 D.1.i.ii; condition 2.2 D.1.j.ii; conditions 2.2 D.1.l.ii, 2.2 D.1.l.iii, 2.2 D.1.l.iv, 2.2 D.1.l.v, 2.2 D.1.l.vii, and 2.2 D.1.l.viii; condition 2.2 D.1.m; condition 2.2 D.1.n; condition 2.2 D.1.o; and condition 2.2 D.1.p.iii; (5) for the Riley Bark, Riley Coal and No. 4 Power Boilers (G11042, G11039 and G11040) - condition 2.2 J.1.c.vii and Table 2.2 J.2; (6) Testing – condition 2.2 J.1.d, Table 2.2 J.3, and condition 2.2 J.1.e; (7) Recordkeeping - conditions 2.2 J.1.g.i, 2.2 J.1.g.ii, and 2.2 J.1.g.iii; (8) Reporting - conditions 2.2 J.1.h and 2.2 J.1.i. EPA has made, and will continue to make, these materials generally available through www.regulations.gov

and at the EPA Region 4 Office (please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section of this preamble for more information).

IV. Final Action

EPA is approving SO₂ emissions limits and associated operating restrictions, MRR, and testing compliance parameters from BRPP’s title V operating permit T29 into the North Carolina SIP. EPA confirms that the SO₂ emissions limits and associated operating restrictions, MRR, and testing compliance parameters for BRPP are more stringent than requirements that are currently approved into the North Carolina SIP for BRPP. By incorporating these SO₂ permit limits and associated operating restrictions, MRR, and testing compliance parameters into the North Carolina SIP, these requirements will become permanently federally enforceable and strengthen the North Carolina SIP.

Section 553(d)(3) of the Administrative Procedure Act (“APA”), 5 U.S.C. 553(d)(3), provides that final rules shall not become effective until 30 days after date of publication in the *Federal Register* “except . . . as otherwise provided by the agency for good cause.” The purpose of this provision is to “give affected parties a reasonable time to adjust their behavior before the final rule takes effect.” *Omnipoint Corp. v. Fed. Comm’n Comm’n*, 78 F.3d 620, 630 (D.C. Cir. 1996); *see also United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). Thus, in determining whether good cause exists to waive the 30-day delay, an agency should “balance the necessity for immediate implementation against principles of fundamental fairness which require that all affected persons be afforded a reasonable amount of time to prepare for the effective date of its ruling.” *Gavrilovic*, 551 F.2d at 1105. EPA has determined that there is good cause for making this final rule effective immediately after balancing such considerations. Regarding affording affected persons reasonable time to prepare, BRPP does not need time to prepare for the effective date of this rule because the emissions limits and compliance parameters EPA is incorporating into the SIP are already federally

enforceable through the facility's title V permit, and BRRP is already meeting those limits and compliance parameters. Thus, the only consequence of EPA's action is to make the terms and conditions of the permit submitted for SIP approval permanently federally enforceable, which has no immediate impact on BRPP. Regarding necessity for immediate implementation, delaying the effective date of the SIP approval for 30 days after publication in the *Federal Register* risks interfering with EPA's ability to consider these limits and compliance parameters when assessing the most current and accurate information reflecting the air quality status around BRRP in its upcoming final designation decision under the 2010 1-hour SO₂ NAAQS, as that designation decision is due under court order to be signed no later than December 31, 2020. Moreover, it is in the public's interest for EPA's approval and incorporation of these enforceable permit terms to be made permanently federally enforceable immediately. For these reasons, the agency finds that good cause exists under APA section 553(d)(3) to make this rule effective immediately upon publication.

This final rulemaking does not address whether the specific SO₂ permit limits and compliance permit conditions from operating permit T29 are adequate for EPA to promulgate an attainment/unclassifiable designation of the 2010 1-hour SO₂ NAAQS for the Beaverdam Township Area near BRPP. However, final approval of these SO₂ permit limits and associated compliance parameters into the SIP, allows EPA to evaluate a modeling demonstration that these limits provide for attainment as part of the rulemaking on the 2010 1-hour SO₂ NAAQS designation for the Beaverdam Township Area in Haywood County, North Carolina. Final approval of this SIP under CAA section 110, does not prejudice the outcome of EPA's forthcoming designation of the Beaverdam Township Area, as that future determination is occurring as part of a separate rulemaking under CAA section 107 for all remaining undesignated areas in the country.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, if they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. These actions are not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference,
Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 13, 2020

Mary Walker,

Regional Administrator,

Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart II – North Carolina

2. In § 52.1770 is amended by adding paragraph (d) to read as follows:

§ 52.1770 Identification of plan.

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(d) *EPA-Approved North Carolina Source-Specific Requirements.*

EPA-APPROVED NORTH CAROLINA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Federal Register Citation	Explanation
Blue Ridge	Title V Operating	6/2/2020	[Insert date of	[Insert citation	Only the following provisions:

Paper Products, LLC	Permit No. 08961T29		publication in Federal Register]	of publication in the Federal Register].	<p>1) Condition 2.2 J.1.b.</p> <p>2) The lb/hr SO₂ emission limitations in Table 2.2 J.1 for the No. 10 and No. 11 Recovery Furnaces (G08020 and G08021), No. 4 and No. 5 Lime Kilns (G09028 and G09029) and Riley Bark, Riley Coal, and No. 4 Power Boilers (G11042, G11039 and G11040).</p> <p>3) No. 10 and No. 11 Recovery Furnaces (G08020 and G08021) - Condition 2.2 J.1.c.i.</p> <p>4) No. 4 and No. 5 Lime Kilns (G09028 and G09029) - Condition 2.2 J.1.c.iii; Condition 2.2 D.1.f.ii: Table 2.2 D-2; Conditions 2.2 D.1.h, 2.2 D.1.i.ii; 2.2 D.1.j.ii, 2.2 D.1.l.ii, 2.2 D.1.l.iii, 2.2 D.1.l.iv, 2.2 D.1.l.v, 2.2 D.1.l.vii, 2.2 D.1.l.viii, 2.2 D.1.m, 2.2 D.1.n, 2.2 D.1.o, and 2.2 D.1.p.iii.</p> <p>5) Riley Bark, Riley Coal, and No. 4 Power Boilers (G11042, G11039 and G11040)- Condition 2.2 J.1.c.vii and Table 2.2 J.2.</p> <p>6) Testing - Condition 2.2 J.1.d, Table 2.2 J.3, and Condition 2.2 J.1.e.</p> <p>7) Recordkeeping - Conditions 2.2 J.1.g.i, 2.2 J.1.g.ii, and 2.2 J.1.g.iii;</p> <p>8) Reporting - Conditions 2.2 J.1.h and 2.2 J.1.i.</p>
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[FR Doc. 2020-25464 Filed: 11/23/2020 8:45 am; Publication Date: 11/24/2020]